IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.29065 of 1998

Between:

Geeta Bai W/o late B. Prakash
R/o Jhansi Chowrasi, Hyderabad

..... PETITIONER

AND

1 The Zonal Manager, Food Corporation of India
Haddows Road, Chennai.
2 The Senior Regional Manager, Food Corporation of India
HACA Bhavan, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in not regularising the services of the Petitioner as Scavanger is wholly illegal, arbitrary and unjust and voilative of Articles 14 & 16 of Constitution of India, and consequently direct the Respondents to regularise the services of the Petitioner in the post of Scavanger right from date of her initial appointment in the year 1986 with all consequential benefits.

Counsel for the Petitioner: Mr.V.VISWANATHAM

Counsel for the Respondents: Mr.Meherchand Noori, STANDING

COUNSEL FOR FCI

The Court made the following :

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ORDER:

This writ petition is filed seeking a Mandamus directing the respondents to regularize the services of the petitioner in the post of Scavenger right from the date of her initial appointment in the year 1986 with all consequential benefits.

The case of the petitioner is that she has been working as Scavenger in the Office of the 2nd respondent since 1986. She was appointed in the vacancy arose due to illhealth and ultimately death of her mother. Initially, she was paid Rs.8/- per day. Subsequently, she was paid consolidated salary of Rs.420/- per month, which was time to time enhanced and as of 1998 she was paid Rs.1,100/- per month. Though she worked for more than 12 years as on the date of filing of writ petition, her services were not regularized and she was continued on consolidated basis with a meagre salary. She made repeated representations i.e. on 4-4-1988, 27-4-1991 and 8-11-1996 requesting the authorities to regularize her services in the post of Scavenger right from her initial appointment. Though the representations were received by the 2nd respondent, her case for regularization was not considered. Continuation of her services on consolidated pay for more than 12 years would itself show that there is a clear vacancy of Scavenger, wherein she can be accommodated by regularizing her services. Therefore, the action of the respondents in not regularizing her services is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of respondents denying the allegations made by the petitioner. It is admitted that after Smt. Kamala Bai, mother of the petitioner, the petitioner Smt. Geeta Bai is being continued as a Scavenger. The name of the mother of petitioner was recommended to the Food Corporation of India Headquarters for regularization of her services. After examination of all such

cases, a decision had been taken with the approval of Government of India to appoint all the daily rated casuals, who were working against permanent nature of work and completed three months of service as on 2-5-1986 and against the existing regular/sanctioned posts available in Category IV entry level posts viz., Watchman/Messenger/Sweeper vide Headquarter's letter dated 6-5-1987. However, in the said letter, it was indicated that the said decision shall not apply for part time casual employees. However, subsequently, the FCI Class IV Employees' Union in South Zone resorted to agitation during the year 1989 and one of their charter of demands was to regularize the services of all part-time Sweepers/Scavengers working in South Zone. The matter was taken up with FCI Headquarters. FCI Headquarters, after examination of all such cases, taken a decision and permitted the Zonal Manager, Madras to regularize the services of part-time workers, who have completed three months service as on 2-5-1986 i.e. crucial date fixed by FCI Board of Directors and in that process, the case of Smt.Kamala Bai – mother of petitioner – was also considered and formal appointment orders were issued. Since the mother of petitioner became old, she was not eligible for appointment and accordingly, the appointment order was withdrawn. The petitioner – Smt.Geeta Bai – is working as Scavenger from July,1990 and wages were being paid from contingent amount as per the rates fixed by local authorities. Since she has not fulfilled the conditions mentioned in the Headquarters' letter dated 6-5-1987, her name was not placed before the Board of Directors. Hence, her case for regularization was rejected. In the meanwhile, ban was imposed on filling up of entry level posts of Category IV and Category III in FCI by Government of India. Therefore, the petitioner's case could not be considered for regular appointment in FCI as it is a policy matter. The ban imposed by the Government of India was subject matter of writ petition and writ appeal before this Court and the ban was upheld. Since the ban order was issued by Government of India, respondents have no power either to regularize or appoint the petitioner for want of sanction of the post.

Heard both sides and perused the entire material on record.

It is not the case of respondents that the petitioner was appointed either irregularly or was not eligible for being appointed as Scavenger in the service of the respondent-Corporation. It is also not denied that the petitioner has been working as Scavenger since 1996 i.e. more than 18 years by now. It also cannot be said that there is no post available, since the petitioner has been working in the post of Scavenger

(Category IV) for the last 18 long years. Under those circumstances, it is desirable that the respondents consider the case of the petitioner, as a special case, for regularization of her services in the post of Scavenger (Category IV), if necessary, by way of seeking relaxation of the purported ban imposed by the Government of India, in the peculiar circumstances of the case. Further, it is seen that the petitioner is aged more than 52 years now and any delay caused would only deny her pension for the sincere service rendered by her in a menial post of Scavenger.

Accordingly, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for regularization of her services in the post of Scavenger (Category IV) within a period of six months from the date of receipt of a copy of this order, by seeking relaxation of the ban imposed, if any, from the Government of India. No order as to costs.

August 27, 2004

Prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Zonal Manager, Food Corporation of India
Haddows Road, Chennai.
2 The Senior Regional Manager, Food Corporation of India
HACA Bhavan, Hyderabad.

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